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Kathy Sager
Manager
Regulatory

January 7, 2004

Ms Darlene Standley, Deputy Director
Telecommunications Division
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee

RECEIVED

JAN - 7 2004

TELECOMMUNICATIONS DIVISION

Dear Darlene:

SUBJECT: Filing to Amend Data Request for Tariff 2003-1379, Docket 03-00624

Attached is the revised data response dated December 12, 2003. This revision corrects pagination errors. There are no other changes.

We appreciate your returning a receipted copy as evidence of this tariff filing. Please call Kathy Sager at 214-4150 if you have any questions or wish to discuss.

Yours truly,

A handwritten signature in black ink that reads "Kathy Sager". The signature is written in a cursive, flowing style.

Attachments

REQUEST: Is the bundle¹ available for resale?

RESPONSE: At the outset, it should be noted that the BellSouth Consumer Wireless Combined Bill Reward Offer ("Combined Bill Offer") is not actually a bundle. That is, unlike a traditional bundle, this promotion does not offer customers two or more products at a single price. Rather, this promotion offers qualifying customers a discount on their Cingular wireless service simply for having that service billed on their BST bill. Thus, while there are some qualifying conditions, this offer does not pertain to a specific product or service, or even require the purchase of any additional products or services, and therefore does not represent a service "bundle". With that clarification, we respond to this and the following questions below.

This offer is available only to existing BellSouth customers who subscribe to BellSouth Complete Choice, a 1FR + 3 features, or BellSouth Preferred Pack and who also already subscribe to Cingular Wireless service. This promotion offers any of these existing customers who do not presently have their Cingular wireless service billed on their BellSouth bill an option to receive a 10% discount on the monthly recurring charge for their wireless plan simply by electing to have that service included on their BellSouth bill. Customers who already have both services on a combined bill, such as customers who may have previously enrolled in the Answers program (formerly known as the Solutions plan) and who thus already receive a modest discount on their Cingular service under that program, are also eligible to receive the 10% discount under this promotion when they make a change in their Cingular plan or upon request. (Note: the objective of this promotion is to encourage combined billing because of the beneficial retentive effects a combined bill

¹ "Bundle" as used in this Data Request refers to the entire offering, including the regulated and non-regulated portions.

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provides for both Cingular and BellSouth. The promotion is not aimed at acquiring new customers. Customers already with a combined bill under the Solutions/Answers program were included in the eligibility for this promotion in recognition that a higher discount is likely to have a greater retentive effect.)

Since this offer does not provide customers with a discount off their BellSouth regulated services, this offer is not available for resale.

REQUEST: If so, what are the rates, terms and conditions under which the bundle is made available for resale?

RESPONSE: As stated above, the Combined Bill Offer is not a bundle. In addition, the offer does not involve a discount or a change in the rates of any regulated telecommunications service provided by BellSouth.

REQUEST: If the bundle is not available for resale, please cite all federal and/or state rules, laws, regulations, etc. to justify your position.

RESPONSE: The statutory source of BellSouth's resale obligation is Section 251(c) of the 1996 Telecommunications Act, which requires that incumbent LECs offer for resale at wholesale rates any telecommunications service "that the carrier provides." BellSouth is an incumbent LEC, but it **does not provide** Cingular Wireless services. The discounted wireless services included in the subject offer are provided by Cingular Wireless, which is not an incumbent LEC. Therefore there is no obligation to make Cingular Wireless services available for resale at wholesale rates. Regarding the voice telecommunications service which BellSouth **does provide**, BellSouth's telecommunications services are available for resale, on a stand-alone basis, at the standard tariff price minus the wholesale discount established by the TRA for such services. Provided that BellSouth makes these services available for resale at the standard tariff price less the requisite wholesale discount, there is no obligation to make individual BellSouth-provided telecommunications services available for resale at a rate that is not available in the retail marketplace.

A carrier seeking to replicate the *BellSouth® Combined Bill offer* can purchase the stand-alone telecommunications services at the resale discount (or UNE prices or using its own facilities, where applicable), obtain wireless service from a number of CMRS providers, and provide them together on a single bill at a discount in order to compete against the *BellSouth® Combined Bill offer*.

This offer further reflects BellSouth's efforts to listen to its customers' particular needs by offering them the convenience of combining their bills. Because a combined billing has retentive value for BellSouth and Cingular, existing customers are provided with an incentive to select the combined bill option.

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REQUEST: What portion of the ten percent discounts on Cingular Wireless service service plan is being funded by the regulated operations of BellSouth.

RESPONSE: The discount to customers will vary depending upon the wireless plan each customer elects. Based upon the number of customers eligible for this offer and the average Cingular Wireless discount per customer, however, BellSouth projects to fund on average 2/3 of the discount provided.

REQUEST: Would BellSouth be willing to offer the same bundling arrangements to wireless providers other than Cingular? If so, will BellSouth fund comparable discounts to other wireless carriers? Provide detailed justification for your position.

RESPONSE: As clarified above, the Combined Bill offer is not a bundle. Nor would BellSouth be willing to offer the same arrangement to wireless providers other than Cingular. BellSouth acts as the agent for Cingular Wireless in the sale of Cingular Wireless services. BellSouth is under no obligation to act as the agent for any other wireless service provider or to offer the same or similar arrangements with any other wireless provider.

In the offer reflected in the referenced tariff filing, BellSouth has accounted for a portion of the customer benefit as a charge against the revenue associated with the regulated BellSouth services covered by the offer. BellSouth accounting procedures record sales incentives, such as discounts, as a contra-revenue as required by GAAP (Generally Accepted Accounting Principles). The sales incentive issue in accounting literature is covered by the "Revenue Recognition" requirements of GAAP and in particular EITF 00-14 and EITF 00-21. Likewise, Cingular Wireless has provided a portion of the customer benefit by funding a portion of the discount. Consistent with this accounting treatment, each company derives a customer retention benefit from this offer in the form of customer loyalty.

Both BellSouth and Cingular Wireless recognize revenue reductions for their respective services. CLECs in Tennessee are free to develop and provide a similar promotional offer if they choose to do so. There are multiple wireless providers throughout Tennessee for which the CLEC could act as an agent. CLECs can (and do) combine their own local service (whether resold, UNE-P or facilities-based) with wireless services and compete against BellSouth's consumer-benefiting offer.

REQUEST: Do the rates for the bundle² exceed the statutory price floor contained in Tenn. Code Ann. § 65-5-208(c) for the bundled services, including the regulated and non-regulated portions? Provide all calculations to support your response.

RESPONSE: As BellSouth stated in response to request numbers 1 and 2 above, the BellSouth Consumer Wireless Combined Bill Reward Offer is not a bundle. The Combined Bill offer provides a 10% discount off a customer's existing Cingular wireless plan if the customer is also an existing BellSouth customer and the customer elects to participate in this program either by combining their Cingular wireless and BellSouth bill or by selecting a new wireless plan if already combine billed. However, as stated in response to Item Nos. 4 and 5 above, due to the customer retention value of this Offer to BellSouth, BellSouth is funding a portion of the discount. The BellSouth funded portion will be treated as contra revenue against BellSouth's regulated products. The statutory price floor contained in Tenn. Code Ann. § 65-5-208(c) applies only to prices of services under the TRA's jurisdiction and thus, in this case only applies to the BellSouth services eligible for this promotion. The proprietary cost support data is filed under separate cover.³

The cost support demonstrates that taking into consideration the reduction in revenue attributable to BellSouth's regulated services, the services an existing customer must subscribe to in

² "Bundle" as used in this Data Request refers to the entire offering, including the regulated and non-regulated portions.

³ Confidential cost support is provided to the staff subject to the confidentiality provisions provided with the response. This confidential material has not been provided to others, but can be obtained upon execution of a protective agreement. Explanatory notes have been added for the convenience of the Staff

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order to receive this offer are still priced above the price floor. The services provided by Cingular Wireless are not subject to T.C.A. § 65-5-208(c), but are priced competitively with service offerings from other CMRS providers.

REQUEST: The filing states, in part, "The offer will allow the customer to either move to a *Solutions wireless plan...*" [emphasis added]. Define "*Solutions wireless plan*" in detail.

RESPONSE: "Solutions wireless plan" is actually outdated nomenclature, and the reference should have been to an Answers wireless plan. Answers is the successor program to the Solutions program. Under the former Solutions program, customers who had Cingular service combined on their BellSouth bill were entitled to a discount on their wireless plans that was funded entirely by Cingular. These Solutions plans and discounts continue for existing subscribers unless the customer makes changes to them.

Under the Answers program, eligible customers subscribing to the Wireless Answers plan receive a specified dollar discount on their chosen wireless plan, depending on the BellSouth services they purchase, rather than a percentage discount. However, that program is only available to customers newly subscribing to the wireline and wireless components of that plan. The reference to moving to a Solutions [Answers] plan was included in this filing to indicate that even those existing customer who are already combine billed, but receiving a lesser Solutions discount, will have the opportunity to realize the larger discount available under this promotion upon request or if they change from their old Solutions plan to a new Answers plan, since, as existing customers, they are ineligible for the Answers discount structure